

REMARKS

Status of claims

Claims 1-59 are pending in this application.

Amendments to the Claims

Applicants have cancelled claims 1-59 and added claims 60-67. Support for newly added claim 60 can be found throughout the Specification, more particularly in original claim 20 and page 3, paragraph 10 (referring to the PCT publication page numbering). Support for claim 61 can be found throughout the Specification, more particularly on page 18, paragraph 72. Support for new claims 62-64 can be found in original claims 28-30. Support for new claims 65-67 can be found throughout the Specification, more particularly on page 21, paragraph 82 and in Example 16 (found on page 38, paragraph 34). As such Applicant submits no new matter has been added.

RESTRICTION UNDER 35 U.S.C. 121 and 372

The Examiner alleges that the application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Group I, claim(s) 1-27 and 33, drawn to an antibody and the pharmaceutical composition comprising the antibody.

Group II, claim(s) 28-32, drawn to the nucleic acid encoding the antibody, expression vector, host cell and a method of making/purifying the antibody.

Group III, claim(s) 34 and 35, drawn to a method of screening a library for antibodies.

Group IV, claim(s) 36, drawn to the antibodies identified by screening the library.

Group V, claim(s) 37 and 40-59, in part drawn to a method of treating obesity or an obesity related condition comprising administering a FGFR-1 (IIIb), FGFR-1 (IIc) or FGFR-4 antagonist.

Group VI, claim(s) 38 and 40-59, in part drawn to a method of treating diabetes or a diabetes related condition comprising administering a FGFR-1 (IIIb), FGFR-1 (IIIc) or FGFR-4 antagonist.

Group VII, claim(s) 39-59, in part drawn to a method of reducing food intake or a condition affected by reducing food intake comprising administering a FGFR-1 (IIIb), FGFR-1 (IIIc) or FGFR-4 antagonist.

The Examiner alleges that Groups I-IV lack unity of invention because the technical feature of the antibody of Group I does not make a contribution over the prior art in view of Ruben et al., US Patent 6,077,692. (Paper No 20090911, page 2-3)

Applicant chooses Group I with traverse. In addition, Applicant elects the antibody or antigen-binding fragments thereof comprising a heavy chain variable region comprising the amino acid sequence of SEQ ID NO: 15 and a light chain variable region comprising the amino acid sequence of SEQ ID NO: 16 as the elected species. Newly presented claims 60-67 read on the elected species.

Applicant submits that Ruben et al., does not destroy unity of invention of the pending claims. In addition, the newly presented claims possess unity of invention as the claims possess a unifying technical feature.

Applicant submits that the Examiner has erred in the characterization of Ruben et al., such that Ruben et al., does not destroy unity of invention of the pending claims.

The Examiner alleges that

Ruben et al. teach that a polypeptide having KGF-2 protein activity includes polypeptides that exhibit the KGF-2 activity in the keratinocyte proliferation assay and will bind to FGF receptor isoforms FGFR1-IIIb (column 17, lines 27-34). Ruben et al. teach antibodies made against KGF-2 (column 22, line 21-column 25, line 7). Thus, antibodies made against KGF-2 will bind FGFR1-IIIb.

(Paper No 20090911, page 4).

It appears that the Examiner is alleging that an antibody to the ligand KGF-2 or to a polypeptide exhibiting KGF-2 activity will also bind to the receptor FGFR1-IIIb. Applicant respectfully disagrees. The Examiner has not provided a reasonable

basis to conclude that “antibodies made against KGF-2 will bind FGFR1-IIIb.” (Paper No20090911, page 4) The cited portions of Ruben et al., do not relate to an antibody or antigen-binding fragment thereof that will bind to FGFR1-IIIb. Thus, it is unclear to Applicant how the Examiner concludes that an antibody to KGF-2 would destroy unity of invention based on an antibody to FGFR1-IIIb.

Applicant also submits newly presented claims 60-67 are directed to an antibody or antigen binding fragment thereof which is defined structurally and provides a unifying technical feature. Claims 60-67 recite that the antibody or antigen-binding fragment thereof comprise a heavy chain variable region comprising the amino acid sequence of SEQ ID NO: 15 and a light chain variable region comprising the amino acid sequence of SEQ ID NO: 16. This antibody or antigen-binding fragment thereof is not disclosed in Ruben et al., and as such, is the special technical feature which provides the unity of invention amongst the claims.

SUMMARY AND CONCLUSION

Applicant submits that the pending claims possess unity of invention and are in condition for allowance. Should the Examiner wish to discuss the foregoing in an effort to advance this application towards allowance, the Examiner is urged to telephone the undersigned at the indicated number.

Respectfully submitted,

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